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San Diego-Los Angeles-Ventura  
Take home Dvar Torah

## Parshas Mishpatim

תשפ"ה

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# Hello, Welcome!

Partners In Torah is a community-wide, independent and inclusive adult education program focusing on understanding Jewish relevancy to our lives by studying text most interesting to each participant.

Through one-on-one discussion for 1 hour each week, friendships are forged between mentors and mentees.

Partners in Torah has proven to be effective at reclaiming the rich legacy of wisdom, inspiration, and guidance for many who have, until now, lacked access.

**Thank you for joining us!**

Please encourage friends to join you in participating so that we may grow together as a community.

# Parshas Mishpatim

## תשפ"ה

**And Parshat Mishpatim starts in a peculiar way.** The Hebrew text (Exodus 21:1) begins with a “ו”, which translates as “And,” a word usually used to connect two ideas or concepts. But this is the beginning of a new portion!

וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תִּשִּׂים לִפְנֵיהֶם:

(1) **And** these are the laws (mishpatim) that you should place before them:

What two things does the “And” connect? Where does this come from?

Rashi provides the answer:

Just as the first ones are from Sinai, these, too, are from Sinai.


מה הראשונים מסיני אף אלו מסיני

In Yitro, last week’s portion, the Jewish people received the Ten Commandments at Sinai. The “And” preceding this week’s opening word connects the mishpatim, the laws of this week’s portion, to the laws given at Sinai. Just as the Ten Commandments were clearly given at Sinai, so too, were these laws.

A **משפט** – mishpat – is a specific type of law, one that is logical, such as **do not murder, do not commit adultery, or do not steal**. A society without a legal system outlawing these basic social laws cannot function.

These three basic, logical social laws are numbers 3, 4, and 5 of the 7 laws given to Noach for all mankind to observe. The Seven Noachide laws are: 1. Believe in Hashem the Creator of the World. 2. Do not curse Hashem. 3. Do not murder. 4. Do not commit adultery. 5. Do not steal. 6. Have a court system to enforce the Noachide laws. 7. Do not eat the limb of an animal while the animal is alive.

America’s judicial system, as well as those of many other countries,



has laws prohibiting murder, theft, and adultery. We are grateful to our government for having a system that identifies criminals and brings them to justice.

Indeed, the Mishna (Pirkei Avot 3:2) teaches us:

רבי חנינא סגן הכהנים אומר, הווי מתפלל בשלומה של מלכות, שאלמלא מורא, איש את רעהו חיים בלעו.

Rabbi Chanina the assistant High Priest said: Pray for the welfare of government, for without the fear of it, men would swallow one another alive.

Not only must we be grateful to our government for the protection it gives us, but we must also pray for its welfare. Without the government, we would be subject to the law of the jungle – survival of the fittest.

Since mankind recognizes the need for these laws and their enforcement, it would seem that these Torah laws are superfluous. After all, governments must enact these laws for society to function, so why would Hashem have to give us these laws in the Torah?

The answer to another question will help us answer this question.

The Midrash teaches us:

וקודם שנתן תורה לעמו ישראל בא הקב"ה אל כל אומה ולשון ליתן להם את התורה כדי שלא ליתן להם פתחון פה לעתיד לבא לומר אם אירע לנו הקב"ה ליתן לנו את התורה היינו מקבלים אותה הלך אצל בני עשו אמר תקבלו את התורה אמרו לו מה כתיב בה אמר להם לא תרצח ענו כלם ואמרו וכי ברכה שנתברך עשו אבינו תרצה לעקור אותה ממנו דכתיב על חרבך תחיה אין אנו רוצים לקבלה

Before He gave the Torah to the Jewish people, Hashem offered it to all the nations of the world so that they would not be able to claim in the future, “Had you offered it to us, we would have accepted it!” Hashem first went to Eisav’s descendants and asked them, “Would you accept My Torah?” They asked, “What does it say?” Hashem answered, “Do not murder.” They all answered, “Would you want to uproot the blessing that our grandfather

received (Genesis 27:40), 'By your sword you shall live'? We don't want it!"

הלך אצל בני לוט (עמוון ומואב) אמר להם תקבלו את התורה אמרו מה כתיב בה  
אמר להם לא תנאף אמרו מניאוף באנו אין אנו רוצים לקבלה

Hashem went to the descendants of Lot and asked them, "Will you accept My Torah?" They said, "What does it say?" Hashem answered, "Do not commit adultery." They responded, "We came about through adultery, so we cannot accept it."

ועוד הלך אצל בני ישמעאל אמר להם תקבלו את התורה אמרו לו מה כתיב בה  
אמר להם לא תגנוב אמרו וכי ברכה שנתברך בה ישמעאל אבינו אתה רוצה לעקור  
ממנו דכתיב ידו בכל ויד כל בו אין אנו רוצים לקבל תורתך

Then He went to the descendants of Yishmael and said to them, "Will you accept My Torah?" They asked, "What does it say?" Hashem answered, "Do not steal." They responded, "Would you want to uproot the blessing of our forefather about whom it is said (Genesis 16:12), 'His hand against everyone and everyone's hand against him'? [I.e., he will steal everything from everyone else.] We don't want the Torah."

The question is, why were Eisav's and Lot's and Yishmael's descendants so concerned about murder, adultery, and theft? These crimes were prohibited anyway as Noachide laws. Regarding those commandments, what difference would it have made to them?

Our Sages answer that accepting those commandments as part of the Torah would have been an upheaval in their lives.

As Noachides, the three nations understood that every society must have laws to control murder, adultery, and theft. Without such a system in place, society could not exist, so they would have to control themselves. However, in their minds, there was nothing intrinsically wrong with any of those acts and, when needed on a once in a while basis, it was okay. This was their way of life. When Eisav needed to, he would murder with no qualms. This was his blessing, and he was able to get away with it very well. The same for Lot and Yishmael. They exploited their blessings for their



benefit whenever necessary.

The Torah's perspective is the opposite. These acts are intrinsically wrong and prohibited. They are abominable and abhorrent in and of themselves these actions are always prohibited.

Because the Torah speaks about the intrinsic evil in these three sins, the Torah's laws of what constitutes murder, adultery, and theft plumb the depth of the evil deeds and teach us how to avoid it in the most sensitive way.

Let us say someone is given the ultimatum, "Either you kill so and so, or I will kill you." The law is that he must forfeit his life and not kill the other person.

There is a corollary of this law that we learn from Tamar, daughter-in-law of Yehuda (Yaakov's son). When Tamar was put to the test of either embarrassing Yehuda or being put to death, she was prepared to die rather than embarrass him. Our Sages learn from here that one must give his life rather than embarrass a person. Since in their moment of embarrassment, they would rather be dead than alive, embarrassing someone is like spiritually killing him. Therefore, just as one must give up his life and not physically kill the other person, here, too, one must give up his life not to embarrass them and spiritually kill them. Only according to the Holy Torah is this a form of murder.

Here is another example of "murder" in the Torah. The Talmud says (Erchin 15b),

במערבא אמרי לשון תליתאי קטיל תליתאי הורג למספרו ולמקבלו ולאומר

In Israel they say, "The third tongue [i.e. malicious speech about a third person] kills three. It kills the one who said the lashon hara, the one who accepted it, and the one about whom it was said."

Who would have considered a gossip a murderer? Only the Torah, which is sensitive to the farthest reaches of one's words, can assess the damage caused by one who says negative things about his fellow. Just a flippant declaration like "Oh, he's an idiot!" can ruin a person's prospects for a job, which deeply impacts him

and his whole family. When this would get out, who would want to hire an idiot? The one who accepted it is also “dead,” dead to the virtues of the person because he has accepted the fact that this person is an idiot and has written him off. Of course, the one who has killed the poor fellow by telling everybody that he is an idiot is like dead, because he has killed a person. Not physically, but figuratively.

In the last paragraph of last week’s portion (Exodus 20:22), the Torah teaches us:

וְאִם מִזְבֵּחַ אֲבָנִים תַּעֲשֶׂה לִּי לֹא תִבְנֶה אֹתוֹן גְּזִית כִּי חֶרֶבְךָ הַנִּפְתָּ עָלֶיהָ וַתְּחַלְלֶהּ.

22) And when you make for Me an altar of stones, do not build them hewn, for you will have raised your sword over it and desecrated it.

The Torah is teaching us that the stones used for the altar may not be hewn with a metal object. What is the reason for this? Rashi explains that the altar is designed to lengthen one’s life by allowing him to make amends for his sins with a sacrifice, and a sword is a tool used to shorten one’s life. Therefore, it is inappropriate to use a metal sword to make the altar.


The stones of the altar are so sensitive that even a metal instrument capable of killing cannot be used in its construction. This is an example of how far from killing the Torah wants us to be.

In a similar vein, in the next verse, the Torah says,

וְלֹא תַעֲלֶה בְּמַעֲלֹתָ עַל מִזְבְּחִי אֲשֶׁר לֹא תִגָּלֶה עֲרוֹתְךָ עָלָיו.

23) You shall not ascend My altar on steps, so that your nakedness will not be uncovered upon it.

The altar has a ramp instead of steps because when a person goes up steps, he must lift one foot at a time and his nakedness may show for a minute. But a ramp allows him to take small steps without having to lift one of his feet, preventing any inappropriate exposure.



Here again, we see the Torah's sensitivity to matters of immodesty and exposure. Only the Holy Torah would be sensitive to such a seemingly minor matter. But the lesson is there, loud and clear.

The Talmud (Sanhedrin 7b) derives the following lesson from not having steps to ascend the altar.

אמר רבי אליעזר מניין לדיין שלא יפסע על ראשי עם קודש? שנאמר, "לא תעלה במעלות," וסמיך ליה, "ואלה המשפטים"

Rabbi Eliezer said: How do we know that a judge should not "step" into a room unnecessarily, just to make everybody stand up for him [out of respect]? For next to the portion of Mishpatim it says, "Don't use steps to ascend the altar," implying this rule applies to a judge as well.

Don't use your "steps" to promote your honor. Even though you are a judge, be humble. A judge, who has the authority to judge others and who controls their destiny, perhaps should have the right to feel superior to the common man who is subject to his wisdom and power. To counter that, the Torah requires the judge to be humble and not to lord himself on a step above others.

This is the nature of all the logical laws of the Torah, that is, the mishpatim. They are not there to keep man in check and allow society to function. They are intrinsically right or wrong and they reach the deepest sensitivities of a person.


In terms of what is considered stealing, the Torah also has different standards and different applications than would be commonly thought.

The Talmud teaches us (Berachot 35a):

אמר רב יהודה אמר שמואל כל הנהנה מן העולם הזה בלא ברכה כאילו נהנה מקדשי שמים

Rabbi Yehuda said in the name of Shmuel, "Whoever benefits from this world without reciting a blessing before partaking of it is as if he has eaten of Hashem's consecrated items."





Since everything in the world belongs to Hashem, and He allows us to partake of it only after acknowledging His gift with a blessing, should we neglect to recite the blessing, it is as if we are stealing Hashem's food.

אמר רבי חנינא בר פפא כל הנהנה מן העולם הזה בלא ברכה כאילו גזול להקדוש  
ברוך הוא וכנסת ישראל

Rabbi Chanina bar Papa said, “Whoever takes benefit from this world without reciting a blessing over it, it is as if he steal from Hashem and from the Jewish nation.”

Rashi explains that the theft here is on the blessing itself. Hashem is entitled to a “thank You” from us, in the form of the blessing that we recite before eating. When we omit the blessing, we have stolen the thank You from Hashem. This concept would also apply to a person who has benefitted us. If we neglect to thank them for their goodness, we are robbing them of what is rightfully theirs.


Omitting a blessing constitutes stealing from the Jewish nation because when one neglects to say a blessing, Hashem curtails the amount of blessing He bestows on the world. Therefore, people are not getting as much blessing as they should.

When in yeshiva, a boy is taught about גזל שינה – stealing sleep. Stealing sleep? How can you steal sleep? The answer is, when a roommate is sleeping and a different roommate enters the room and inconsiderately makes noise, waking up his friend, he has stolen his sleep from him.

These are but a few examples of the mishpatim in the Torah given from Heaven. This level of sensitivity and care are worthy only of a holy nation. The Jewish nation models their conduct after Hashem's perfect character. Hashem also keeps the mishpatim, so-to-speak, because they are intrinsically just and righteous.

There is another very important lesson in understanding that the mishpatim – logical laws – are from Sinai.

America maintains a clear division between church (religion) and state (civil law). The framers of the American Constitution did not



want government involvement in personal religious beliefs. These are two different realms, never to be mixed. (Interestingly, the phrase “separation of church and state” does not appear in the Constitution.)

The Torah, on the other hand, comprises all the instructions for perfect human behavior. Hence, there can be no proper or correct aspect of human behavior that escapes the Torah’s purview. Laws of social behavior are also part of the Torah.

This, though, raises a question. Why waste several of the Ten Commandments (theft, murder, giving false testimony, honoring parents, adultery) on laws that are obvious to any logically thinking person? And what difference does why a person not steal make? Perhaps it is even better if the reason he doesn’t steal is because he understands on his own that it is wrong.


Maimonides, however, teaches us that this is incorrect. In chapter 8:11 of the Laws of Kings, he writes,

כל המקבל שבע מצות וזוהר לעשותן הרי זה מחסידי אומות העולם ויש לו חלק לעולם הבא והוא שיקבל אותן ויעשה אותן מפני שצוה בהן הקב"ה בתורה והודיענו על ידי משה רבינו שבני נח מקודם נצטוו בהן אבל אם עשאן מפני הכרע הדעת אין זה גר תושב ואינו מחסידי אומות העולם **ולא מחכמיהם**

Any gentile who accepts the seven Noachide laws and carefully performs them is a “Righteous Gentile” and will have a place in the World to Come. However, this is only if he accepts to do them because Hashem, in His Torah, commanded gentiles to keep them, and let it be known through Moshe that the descendants of Noach are obligated to do them. If, however, he does them [solely] because he feels that this is the right thing to do, he is not a “Righteous Gentile” **and he is not one of their wise men, either.**

What is not wise about a person who has a strong moral understanding that murder and theft are wrong?

The Torah is the prescription for living a moral and upstanding life. When left to its druthers, the human mind is so brilliant and innovative that it can figure out the circumstances under which it is “correct” to steal and “appropriate” to murder. If the only reason



that I do not steal is because I have figured out that it is not right, then should I figure out how in a given situation it is “right,” then it would be okay to take someone else’s possession.

A group of professors were travelling when their car ran low on gas. It was the middle of the night, and all the gas stations were closed in the small town they found themselves in. They needed to travel a few more hours, so they pulled up alongside a parked Cadillac and one of the group started siphoning off gas into their tank.


“Hey! What are you guys doing? That’s stealing!” cried one of the professors.

“Don’t you see?” came the reply. “We didn’t just pick any car! We deliberately picked a Caddy. The owner of this car is obviously wealthy, and we are professors on an educational mission. It is his good fortune to be able to further higher education by giving us some gas!”

When the law is made by man, it can also be broken by him, because he is free to determine its parameters and applications. But when Hashem gives the law, it is not humanity’s law to break. We must abide by the rules set by the Author of the law.

This is why we need *יראת שמים* – fear of Heaven. Only when a person’s actions are governed by a Higher force that is beyond his control can he be guaranteed that he will always make the right decision. This is why it is unwise to rely on your intellect to determine what is right and what is wrong. Human intellect can become very creative when it comes to figuring out why it is okay to do something we want to do.

This concept also applies to the commandment “Do not murder” in issues like abortion and euthanasia. These are not matters about which man is qualified to render a decision. Only the One Who issues life can dictate what constitutes life and the conditions under which it may be terminated. Man’s involvement in matters of life and death can actually constitute cold-blooded murder under the guise of mercy and kindness.




As to abortion, opinions run the gamut from “Never” to “Why not? It’s your body, and you can do what you want with it.” Many doctors advise abortion when an ultrasound reveals an imperfection in the fetus, saving the parents from any unpleasantness or hardship. The Torah considers a fetus a full-fledged life and sets forth very clear guidelines for this complex and difficult matter. When not permitted by the Torah, abortion is considered murder, but, when permitted, it is a mitzvah. This is why Hashem had to tell us, in the Ten Commandments, not to murder. It is not up to us to decide; we must consult the Torah to determine what Hashem has said on the matter.

Euthanasia seems like such a humane thing to do. An old person, who cannot do much anyway, is suffering with pain. Why not put him out of his misery? How can you stand by coldly indifferent to human suffering? How much longer will he live anyway? Taking his life would be doing him a favor!

This might seem logical and even sensitive, but it really represents a very limited view of human life. Man is given this life to prepare for an eternal life in the World to Come. We cannot see the whole picture. Only Hashem understands the connection between this world and the next. He has a vital reason for everything that He does, and He does it only for our good. There is purpose and meaning to every bit of suffering and misfortune endured in this world. The benefit of the suffering will only be revealed in the World to Come. Only then will one realize the immense benefit he received from the suffering that he endured in this life.

A Jewish doctor making his rounds late one night noticed an elderly Jew on a life-support machine. Thinking that it was a waste to use the machine on such an old person, he pulled the plug. Sometime later, the doctor had a dream in which the elderly Jew came to him and asked him, “Why did you do that? I was in my final stages of preparing for the next world, and you cut me short. Now, I am suffering because of what I was not able to fix during my lifetime!” “I am so sorry!” answered the doctor in his dream. “I had no idea anything was going on! Is there anything I can do to rectify my mistake?” The old man told him, “Perhaps,



if you begin fulfilling the mitzvot, and keeping the Shabbat, it will be a merit for my soul, and I will not suffer anymore.” The doctor accepted his suggestion.

How fortunate are we to have a Torah straight from Hashem with the wisdom necessary to understand what Hashem would say on these daunting matters. And how fortunate are we to have great sages who know the Torah and share their wisdom with us. With their guidance, we can be sure we are always doing the right thing.

